

HOUSE No. 1599

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty relative to improving the workers’ compensation system. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT IMPROVING THE WORKERS’ COMPENSATION SYSTEM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection 10 of section 13A of chapter 152 of
2 the General Laws, as appearing in the 2002 Official Edition, is
3 hereby amended by striking out the first sentence and inserting in
4 place thereof the following sentence:—

5 The attorney’s fees specified in this section shall be the only
6 fees payable for any services provided to employees under this
7 chapter, unless otherwise provided by an arbitration agreement
8 pursuant to section ten B, except that nothing herein shall prevent
9 at attorney from collecting a fee for advancing an employee’s
10 rights under section seventy-five A or seventy-five B as provided
11 therein.

1 SECTION 2. Section 19 of said chapter 152, as so appearing,
2 is hereby amended by adding after subsection (2) the following
3 subsections:—

4 (3) Any administrative judge, administrative law judge or con-
5 ciliator may approve any agreement authorized under this section.

6 (4) Nothing shall prohibit an administrative judge, administra-
7 tive law judge or conciliator from approving an agreement to pay
8 weekly compensation, medical bills or other benefits without prej-
9 udice when the insurer has failed to pay benefits timely pursuant
10 to section eight or has failed to respond timely to a claim for such
11 benefits.

1 SECTION 3. Said chapter 152 is hereby further amended by
2 striking out section 34, as so appearing, and inserting in place
3 thereof the following section:—

4 Section 34. While the incapacity for work resulting from the
5 injury is total, during each week of incapacity the insurer shall
6 pay the injured employee compensation equal to sixty percent of
7 his average weekly wage before the injury, but not more than the
8 maximum weekly compensation rate, nor less than the minimum
9 weekly wage of the employee is less than the minimum weekly
10 compensation rate, in which case said weekly compensation shall
11 be equal to his average weekly wage.

1 SECTION 4. Said chapter 152, is hereby further amended by
2 striking out section 34A, as so appearing, and inserting in place
3 thereof the following section:—

4 Section 34A. While the incapacity for work resulting from the
5 injury is both permanent and total, the insurer shall pay to the
6 injured employees, following payment of the maximum amount of
7 compensation provided in section thirty-four, a weekly compensa-
8 tion equal to two-thirds of his average weekly wage before the
9 injury, but not more than the maximum weekly compensation rate
10 nor less than the minimum weekly compensation rate, unless the
11 average weekly of the employee is less than the minimum weekly
12 compensation rate, in which case said weekly compensation shall
13 be equal to his average weekly wage.